

NORMA PAULUS
State Superintendent
of Public Instruction



CC 96-45
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OREGON DEPARTMENT OF EDUCATION
Public Service Building, 255 Capitol Street NE, Salem, Oregon 97310-0203
Phone (503) 378-3569 • Fax (503) 373-7968

September 24, 1997

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED
SEP 25 1997
FCC MAIL ROOM

RE: Working Group Report

Dear Mr. Caton:

On August 6, 1997, I met with Irene Flannery of the Common Carrier Bureau and Dr. Emily Hoffnar, Federal Staff Chair of the Federal-State Joint Board, at the office of the FCC in Washington, D.C. The meeting concerned the issue of aggregating at the state level for purposes of the E-rate raised in Superintendent Norma Paulus' June 30 letter and memorandum to the FCC. Charles Bolle, staff member of the South Dakota PUC, joined the meeting by telephone conference call. See my August 13, 1997, letter and attachments which are enclosed.

At that meeting, I was told that **Oregon will be able to aggregate at the state level**. On the basis of that meeting, the Oregon Department of Education issued a memorandum on August 12, 1997, that has been distributed to school districts throughout the state, describing that conversation in detail. See the enclosed August 12, 1997, memorandum to technology leaders.

The memorandum details Ms. Flannery's response to each question raised. Her response left no doubt that Oregon could aggregate the discount at the state level using the average discount for the state and that the discount would apply to all schools.

Some recent information appears to challenge the FCC response to Oregon at the August 6 meeting. The questions raised by Oregon concerning statewide aggregation are too important to be left unclarified. We are asking that the FCC address the questions raised in Superintendent Paulus' letter and memorandum in its response to comments on the Universal Service Support Distribution Options, CC Docket No. 96-45.

Thank you very much for your courtesy in this matter.

Sincerely,

Joyce H. Benjamin
Associate Superintendent
Federal Programs

cm/federal/letters

Enclosures

cc: Senator Ron Wyden
State Superintendent Norma Paulus

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AUGUST 13, 1997, LETTER AND ENCLOSURES

NORMA PAULUS
State Superintendent
of Public Instruction



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RECEIVED

August 13, 1997

SEP 25 1997

FCC MAIL ROOM

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: Notification of Oral Ex Parte Communication: Federal-State
Joint Board on Universal Service, CC Docket No. 96-45

Dear Mr. Caton:

On August 6, 1997, Joyce Holmes Benjamin, Associate Superintendent, Oregon Department of Education, met with Irene Flannery of the Common Carrier Bureau and Dr. Emily Hoffnar, Federal Staff Chair of the Federal-State Joint Board, regarding Oregon State Superintendent of Public Instruction Norma Paulus' June 30, 1997 letter and memo to the FCC. Charles Bolle, staff member of the South Dakota PUC, joined the meeting by telephone conference call. A copy of the letter and memo are attached. In response to the first and principal question concerning aggregating at the state level, Ms. Flannery stated that this was a matter for state regulation and a state could determine the average discount based on the statewide level of poverty and apply that discount to all schools. No positions were presented which have not already been developed in the public docket. An original and one copy of this letter are being submitted in accordance with Sec. 1.120(a)(b) of the Commission's rules.

Thank you very much for your courtesy in this matter.

Sincerely,

Joyce H. Benjamin
Associate Superintendent
Federal Programs

cm/federal

Enclosures

cc: Irene Flannery
Emily Hoffnar
Charles Bolle
Norma Paulus

bcc: Jim Rose
David Rike
Kathleen Heide
Joanne Flint

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Greg McMurdo
Bob Burns
Judy Patterson
Michael Dalton

NORMA PAULUS
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RECEIVED

SEP 25 1997

June 30, 1997

FCC MAIL ROOM

RECEIVED

JUL 9 1997

Reed Hundt, Chairman
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

OFFICE OF THE CHAIRMAN

Dear Mr. Hundt:

Oregon shares the Commission's concern that the universal service system and the E-rate prove of maximum benefit to schools. The enclosed questions are addressed to the Federal Communications Commission in response to its May order adopting the recommendations of the Joint Board. We ask that the Commission consider the issues raised and respond to the questions before issuing its final order.

If you wish further information, please call Joyce Benjamin of my staff at (503) 373-1977, ext. 532. I look forward to your response.

Sincerely,

Norma Paulus

cm/federal/fcc ltr

Enclosure

cc: Tom Fagan
Gordon Ambach

NORMA PAULUS
State Superintendent
of Public Instruction



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QUESTIONS FOR THE FCC

June 30, 1997

Oregon Department of Education staff have identified the following questions concerning the E-rate for telecommunications services.

1. Questions about aggregation and disaggregation.

Oregon is firmly committed to a quality education for all its students and has developed a state school finance system to implement that commitment. For **equity and efficiency of administration**, Oregon wants to aggregate the E-rate discount at the state level so that each school would receive the same rate of discount. Under Oregon's special circumstances, we believe any other arrangement would be inequitable.

Equity: Because of two recent amendments to its constitution, Oregon has developed a state funded and tightly controlled equitable school finance formula. The system is designed so that each student receives the funding needed to provide approximately the same quality of education depending on the circumstances of the child, not the wealth of the district. In other words, each child in Oregon is allotted the same number of dollars, except for children in special circumstances such as poor, disabled, or limited English students, or pregnant or parenting teens, or neglected or delinquent students, or children being educated in remote small schools. No district may pass a supplemental local levy for its schools. For example, the formula is weighted so that if a district would receive X dollars for a child, the district would receive 1.25 X for a poor student (free and reduced lunch), 1.25 X for foster care/neglected/delinquent students, 1.5 X for an ESL student, twice X for a disabled student, twice X for a pregnant and parenting student, and other sums by formula for students in small and remote schools. Depending on the student, districts may receive as much as 2.75 X for a student plus additional dollars if that child is in a small school more than eight miles from the nearest other school.

In addition to its equalized school support formula, Oregon has a contract through its Department of Administrative Services that equalizes all telecommunications rates for schools. All districts are eligible for a 56KB line at \$106.

Efficiency of administration: Oregon also believes that use of a state rate would be more efficient. Districts develop district budgets, report to the public as a district, and characteristically pay all the bills as a district. Many budgeted items are not attributed to individual school buildings but to the district as a whole. If we can aggregate at a state level, each district would know when budgeting that the telecommunications services purchased by the districts for its schools would be discounted at a flat rate. Districts would not be forced to develop and cost out the individual items and services that they purchase for each school. For example, if a district purchases a network to connect each of its schools, some with a high level of poverty and others with a low level of poverty, without aggregation and application of a state rate the district would need to devise an accounting system to attribute a percentage of the cost to each school and then summarize the cost on the district budget.

- a. **May Oregon use its own formula in setting rates? If we aggregate at the state level, may we take the average discount for the state (around 60%) and apply it to all schools?**

We are proposing that services used by a small, remote school with a high poverty level would be discounted at the same rate as services used by a Portland suburban district. Allowing the remote small school to receive a 90% discount on \$1,000 worth of services would penalize the students at the suburban school that would receive only a 20% discount if the discount is not aggregated.

- b. **May Oregon aggregate at a state level? Will the state need authorization to aggregate at the state level? May we require all local districts to participate in the state level aggregation? If we aggregate at the state level, must we aggregate for all services?**

Oregon is aware that it would be possible to change the basic school support formula to counteract the federal telecommunications formula and thereby accomplish the state's goal that each student should have the resources needed to provide a quality education.

- c. **If Oregon formed a statewide purchasing consortium in which districts and schools participated in order to benefit from market competition but the state was not allowed to aggregate at a state level, how would the appropriate discount be figured, who would determine that, and who would be responsible for calculating and applying the discount?**

The FCC is encouraging forming purchasing consortiums. The mechanism for applying the discount is unclear.

2. The FCC formula refers to the Goldsmith exception list.

What is it? If Oregon is not allowed to use a common discount rate for all schools, what is the definition of a rural school that will be used by the FCC? What is an urban school?

3. The Oregon PUC intends to set up an intrastate matrix discount for Oregon, using the national interstate matrix.

Could the PUC adopt a discount rate that is greater than the interstate discount rate? *(The answer appears to be yes if the state funds any extra discount above the interstate rate.)*

4. The act allows/encourages collaboration with eligible and non-eligible partners. Some Oregon local districts and educational service districts sell telecommunications services to other districts, to non-profits, and to businesses or individuals in their community. The local districts and presumably the educational service districts (ESDs) are eligible for the discount.

How do we identify and charge the partners for their legitimate share of services? How is the discount calculated?

5. May a district that is a service provider apply for the covered costs on those services it provides? How will the discount be applied? Does local district A receiving services from ESD B take the discount and send ESD B the net for the services provided and does ESD B then apply for the cumulated discounts from NECA?

6. By October, most Oregon districts will have developed a qualifying technology plan that meets the description for a qualifying plan for Technology Literacy Challenge Fund purposes. The Oregon Department of Education has developed a verification form to advise districts what must be included in their plans to qualify for the TLCF. The Department of Education will certify that each local school district plan contains a needs assessment and a telecommunications inventory for purposes of the E-rate.

What exactly should the inventory include? What additional information will be necessary for the E-rate discount?

7. Will maintenance for a telecommunications system qualify for the E-rate discount? Will staff time to maintain the network qualify for the discount? If so, how should this be documented?

8. Wireless telecommunication equipment appears to be eligible for the discount. Does this include the costs of microwave equipment used to transmit data and video? What about microwave leasing costs associated with data and video?

9. **Will leased cable used to connect several school sites for data sharing and educational video instruction be eligible for the discount?**

10. A number of Oregon school districts have passed bond measures to support technology and telecommunications in their districts. The payments for the bond measure are budgeted annually for the life of the bond.

Are annual bond payments for technology eligible for discount? Would this be considered retroactive funding?

11. **What will be the effective date for purchases? When the FCC ruling is published in the federal register? January 1, 1998? Some other date (if there is litigation)?**

12. **How are states supposed to manage the bidding process? When we ask for competitive bids, may we use a Request for Proposal procedure which would allow us to select other than the lowest bid depending on the proposal components offered rather than an invitation bid where the lowest bid must be accepted?** *(The answer to this appears to be yes. The information talks about using the state or local procurement process.)*

13. **Will the funds be distributed on a first-come, first-serve basis or will the funds be pro-rated or prioritized if the amount is insufficient?** *(We understand that \$250 million will be reserved in the fund to supply the neediest districts.)*

14. Some small, remote school districts are using the utility poles of their local power company to hang fiber optic cable connecting their buildings. They are being charged to use the poles and the approval process is very difficult.

Is this charge eligible for the discount? Is it possible to simplify the approval process?